

who is either employed by or an accredited representative of an organization named in a power of attorney executed in accordance with paragraph (a) of this section. However, prior to their participation, the claimant's written consent must be furnished to the Department of Veterans Affairs. Such consent must specifically state that a legal intern, law student, or paralegal furnishing written authorization from the attorney of record or the organization named in the power of attorney may have access to the claimant's records and that such person's participation in all aspects of the claim is authorized. The supervising attorney, or an attorney authorized under §14.629(c)(2), must be present at any hearing in which a legal intern, law student, or paralegal participates.

(d) A power of attorney may be revoked at any time, and an attorney may be discharged at any time. Unless a claimant specifically indicates otherwise, the receipt of a new power of attorney shall constitute a revocation of an existing power of attorney. If an attorney submits a letter of representation under §14.629 regarding a particular claim, or a claimant authorizes a person to provide representation in a particular claim under §14.630, such specific authority shall constitute a revocation of an existing general power of attorney filed under paragraph (a) of this section only as it pertains to, and during the pendency of, that particular claim. Following the final determination of such claim, the general power of attorney shall remain in effect as to any new or reopened claim.

(e) The authority which a power of attorney provides may be continued for a reasonable time after the death of the claimant, to determine whether the claim will be continued by a new claimant and whether a new power of attorney will be executed.

(Authority: 38 U.S.C. 5902, 5903, 5904)

[43 FR 46535—46537, Oct. 10, 1978, as amended at 53 FR 52421, Dec. 28, 1988]

§ 14.632 Letters of accreditation.

If challenged, the qualifications of prospective representatives or agents shall be verified by the Regional Counsel of jurisdiction. The report of the

Regional Counsel, if any, including any recommendation of the Department of Veterans Affairs facility director, and the application shall be transmitted to the General Counsel for final action. If the designee is disapproved by the General Counsel, the reasons will be stated and an opportunity will be given to submit additional information. If the designee is approved, letters of accreditation, or an identification card, will be issued by the General Counsel or the General Counsel's designee and will constitute authority to prepare, present, and prosecute claims in all Department of Veterans Affairs installations. Letters of accreditation to former employees of the Federal Government will advise such individuals of the restrictions and penalties concerning post-employment conflict of interest provided in title 18, United States Code. Record of accreditation will be maintained in the Office of the General Counsel.

(Authority: 38 U.S.C. 5902, 5904).

[53 FR 52422, Dec. 28, 1988]

§ 14.633 Termination of accreditation of agents, attorneys, and representatives.

(a) Accreditation may be canceled at the request of an agent, attorney, representative, or organization.

(b) Accreditation shall be canceled at such time a determination is made that any requirement of §14.629 is no longer met by an agent, attorney, or representative.

(c) Accreditation shall be canceled when the General Counsel finds, by clear and convincing evidence, one of the following:

(1) Violation of or refusal to comply with the laws administered by the Department of Veterans Affairs or with the regulations governing practice before the Department of Veterans Affairs;

(2) Knowingly presenting or prosecuting a fraudulent claim against the United States, or knowingly providing false information to the United States;

(3) Demanding or accepting unlawful compensation for preparing, presenting, prosecuting, or advising or consulting, concerning a claim;

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(4) Any other unlawful, unprofessional, or unethical practice. (Unlawful, unprofessional, or unethical practice shall include but not be limited to the following—deceiving, misleading or threatening a claimant or prospective claimant; neglecting to prosecute a claim for 6 months or more; failing to furnish a reasonable response within 90 days of request for evidence by the Department of Veterans Affairs, or willfully withholding an application for benefits.)

(d) Accreditation shall be canceled when the General Counsel finds an agent's, attorney's, or representative's performance before the Department of Veterans Affairs demonstrates a lack of the degree of competence necessary to adequately prepare, present, and prosecute claims for veteran's benefits.

(e) As to cancellation of accreditation under paragraphs (b), (c) or (d) of this section, upon receipt of information from any source indicating failure to meet the requirements of §14.629, improper conduct, or incompetence, the Regional Counsel of jurisdiction shall initiate an inquiry into the matter. If the matter involves an accredited representative of a recognized organization, this inquiry shall include contact with the representative's organization.

(1) If the result of the inquiry does not justify further action, the Regional Counsel will close the inquiry and maintain the record for 3 years.

(2) If the result of the inquiry justifies further action, the Regional Counsel shall take the following action:

(i) As to representatives, suspend accreditation immediately and notify the representative and the representative's organization of the suspension and of an intent to cancel accreditation. The notice to the representative will also state the reasons for the suspension and impending cancellation, and inform the representative of a right to request a hearing on the matter or to submit additional evidence within 10 working days following receipt of such notice. Such time may be extended for a reasonable period upon a showing of sufficient cause.

(ii) As to agents or attorneys, inform the General Counsel of the result of the

inquiry and notify the agent or attorney of an intent to cancel accreditation. The notice will also state the reason(s) for the impending cancellation and inform the party of a right to request a hearing on the matter or to submit additional evidence within 10 working days of receipt of such notice. Such time may be extended for a reasonable period upon a showing of sufficient cause.

(iii) In the event that a hearing is not requested, the Regional Counsel shall forward the record to the General Counsel for final determination.

(f) If a hearing is requested, a hearing officer will be appointed by the Director of the regional office involved. The hearing officer shall not be from the Office of the Regional Counsel. The hearing officer will have authority to administer oaths. A member of the Regional Counsel's office will present the evidence. The party requesting the hearing will have a right to counsel, to present evidence, and to cross-examine witnesses. Upon request of the party requesting the hearing, an appropriate Department of Veterans Affairs official designated in §2.1 of this chapter may issue subpoenas to compel the attendance of witnesses and the production of documents necessary for a fair hearing. The hearing shall be conducted in an informal manner and court rules of evidence shall not apply. Testimony shall be recorded verbatim. The hearing officer shall submit the entire hearing transcript, any pertinent records or information, and a recommended finding to the Regional Counsel within 10 working days after the close of the hearing. The Regional Counsel will immediately forward the entire record to the General Counsel for decision.

(g) The decision of the General Counsel is final. The effective date for termination of accreditation shall be the date upon which a final decision is rendered. The records of the case will be maintained in the General Counsel's office for 3 years.

(Authority: 38 U.S.C. 501, 5902, 5904)

[53 FR 52422, Dec. 28, 1988]